

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2487 OF 2017

Sachin Saibanna Soregaonkar.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Ritesh Thobde, advocate for Applicant.

Mr. N.B. Patil, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 8, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and Learned APP for the State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 30/7/2017 in Crime No. 355 of 2017 registered at Barshi Police Station, Solapur. Investigation is completed and charge-sheet is filed on 9/9/2017 under section 376, 506 of the Indian Penal Code.

3 It is the case of the prosecution that on 29/7/2017 Mrs. X lodged report at the police station alleging therein that she is married woman and her husband is running a saloon at Barshi S.T. Stand. That her husband was an alcoholic. Present applicant was running hotel in the name and style of Hotel Yedeshwari at S.T. Stand, Barshi. That the applicant used to call her on the cell phone and enquire about her wellfare since her husband was an alcoholic. Gradually, he started visiting her house. On one fine day, the applicant had disclosed to the complainant that he is in love with her and that in the eventuality, she decides to desert her husband, he would look after her and that she should not be worried about her future.

4 It is alleged that initially, the complainant had retaliated to such disclosure. She was living separately from her husband at Mangade chawl, Barshi on rent. It is alleged that the applicant used to visit her in the said chawl. It is alleged that on 29/7/2017 at about 3 p.m. the applicant had visited her house assuring to look after her in future and had ravished her against her wish. He was insisting

upon her to divorce her husband. On the basis of her report, Crime No. 335 of 2017 is registered against the applicant.

5 Statement of victim is also recorded under section 164 of the Code of Criminal Procedure, 1973 and she has reiterated the allegations levelled against the applicant in the FIR. In the course of investigation, the complainant was staying in Mangade Chawl and was known to Laxmibai Torad. It is stated that the room was given to the complainant on rent on the request of one Rahul Mangade. It is disclosed that since the applicant was visiting the house of the complainant, there was quarrel between the husband and wife and on that ground she had to desert her husband. In the statement of one Noorjaha, it appears that the complainant had disclosed to her that the applicant happens to be a good friend of her husband.

6 The learned Counsel for the applicant has placed on record the photographs(selfies) taken by the complainant and the applicant to demonstrate that in fact, there were relations between the

complainant and the applicant and the act was committed by consent. However, since a discordant note had struck between the applicant and the complainant, the first information report has been lodged against the applicant.

7 It is pertinent to note that the investigation agency has not recorded statement of the husband of the victim.

8 Taking into consideration the papers of investigation and the submission advanced across the bar, this Court is of the opinion that the applicant deserves to be enlarged on bail.

9 However, it is clear that the observations made hereinabove are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of deciding application for quashing of FIR or discharge or at the time of trial.

10 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall report to the police station as and when called.
- (iv) The applicant shall not tamper with the evidence.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)